

PROPOSED RULES AND REGULATIONS  
ELKHART COUNTY  
GROUND WATER PROTECTION ORDINANCE  
MAY 1, 1989

SECTION 1 (A) These rules and regulations shall be administered by the Health Department through their Health Officer and his or her authorized representative.

(B) These rules contain requirements for the implementation of the Elkhart County Ground Water Protection Ordinance.

(C) These rules and regulations apply to facilities which use, store, or generate toxic or hazardous substances.

SECTION 2 REGISTRATION

(A) GENERAL REQUIREMENTS

Registration required under Sections 2B and 2C of these rules and regulations shall be submitted by the operator of the facility on forms provided by the Health Department and shall include, at a minimum, the following information:

1. name of the facility
2. street and mailing address of the facility; and
3. designated individual to be contacted

The registration shall be a one time registration with the operator of the facility responsible for maintaining a current registration. Registration is non-transferrable.

(B) Any facility receiving any toxic or hazardous substance only in pre-packaged containers and offering such containers unopened for direct resale, shall be exempt from registration under Section 2.

(C) COMMERCIAL/INDUSTRIAL ON-SITE WASTEWATER  
DISPOSAL SYSTEM REGISTRATION

(1) In addition to registration requirements set forth in rules and regulations Section 2A above, the following information is required for compliance with Section 5A of the ordinance:

- a. number, type and location of on-site disposal systems present; and
- b. estimated flow rate to each on-site disposal system.

(2) The operator of a facility shall notify the Health Department within sixty (60) days of any change at the facility, except estimated flow rate changes, after the initial registration in Sections 2A and 2C1 above which renders the information contained in the then existing registration inaccurate.

(3) Any facility subject to registration which is placed in service after the effective date of the ordinance shall register with the Health Department within sixty (60) days after being placed in service and shall meet all other applicable requirements of these rules and regulations.

- (4) Closed system heat pumps, irrigation systems, storm water systems, and non-contact cooling water systems are exempt from complying with this Section of rules and regulations.

(D) TOXIC OR HAZARDOUS SUBSTANCE STORAGE AREA  
REGISTRATION

- (1) Facilities which store toxic or hazardous substances in aggregate quantities greater than 100 kilograms per month (approximately equal to 25 gallons or 220 pounds) shall register in accordance with these rules and regulations.
- (2) Agricultural and residential underground storage tanks of less than eleven hundred (1,100) gallon capacity which are used for storing motor fuels for non-commercial purposes and any underground storage tanks used for storing heating oil for consumptive use on the premises shall register in accordance with these rules and regulations.
- (3) In addition to registration requirements set forth in rules and regulations Section 2A above, the following information is required for compliance with Section 5B of the ordinance:
  - a. general classification of substance stored (ignitable, corrosive, reactive, toxic); and

b. location of storage  
(indoor/outdoor)

- (4) The operator of a facility shall notify the Health Department within sixty (60) days after any change at the facility whereby any hazardous or toxic substance which was previously stored inside is subsequently stored outside.
- (5) Any facility subject to registration which is placed in service after the effective date of the ordinance shall register with the Health Department within sixty (60) days after being placed in service and shall meet all other applicable requirements of these rules and regulations.
- (6) Hazardous waste storage areas that are regulated under RCRA shall be exempt under this section.
- (7) Any laboratory that is a facility and any laboratory contained in a facility shall be exempt under this Section but only with respect to its laboratory activities.
- (8) Any registration information already provided to the Local Emergency Response Committee by a facility in accordance with Title III of the Superfund Amendments and Reauthorization Act, commonly known as Emergency Planning and Community Right-To-Know, as amended, shall meet the registration requirements of this Section.

SECTION 3 WASTE WATER TESTING.

(A) An annual waste characterization shall be provided by any facility registering under both Section 2C and Section 2D of these Rules and Regulations in conformance with Section 6 of the ordinance and shall be subject to the following:

(1) The waste characterization for each on-site disposal system shall be provided by an independent, qualified laboratory approved by the Health Department.

(2) Minimum testing required shall be directly related to the hazardous and/or toxic substances identified at the facility. Tests may be drawn from, but are not limited to, the following analyses:

- (1) Total Toxic Organics (volatile organic chemicals, semi-volatile organic chemicals, pesticides)
- (2) Heavy Metals (as listed in federal and/or state Primary Drinking Water Standards)

SECTION 4 ABOVE GROUND STORAGE OF TOXIC OR HAZARDOUS SUBSTANCES. The following requirements shall be met to comply with Section 8 of the ordinance.

(A) Toxic or hazardous substances shall be stored on an impervious surface.

- (B) Toxic or hazardous substances may not be stored in a manner that would allow a discharge to enter a drain that empties into the ground or that is connected to an on-site waste water disposal system that drains or empties into the ground.
- (C) Outside storage of toxic or hazardous substances is prohibited except in product-tight containers.
- (D) Secondary containment of toxic or hazardous substances stored outside shall be provided and shall be sufficient to store the substances, including an allowance for the expected accumulation of precipitation, for the maximum anticipated period of time necessary for the recovery of any discharged substance.
- (E) Drainage of precipitation from within any area designed to contain a discharge of a toxic or hazardous substance shall be controlled in a manner that will prevent any toxic or hazardous substance from entering into or upon the soil, surface water, or ground water of Elkhart County.
- (F) Agricultural and residential facilities shall be exempt under this Section.
- (G) Above ground storage tanks existing and placed in service prior to the adoption of the ordinance shall be exempted from secondary containment provided:

- (1) registration requirements of Ordinance Section 5 and rules and regulations Section 2 are met; and
  - (2) adequate measures shall be provided so as to prevent incidental leaks and spills from contacting the ground at all loading and off-loading areas; and
  - (3) for all above ground storage tanks greater than ten (10) years of age, an acceptable means of establishing tank integrity and product-tightness shall be utilized by the facility and such information provided to the Health Department every two (2) years unless the facility provides documentation prepared by an independent registered professional engineer of an alternate testing frequency assuring tank integrity and product-tightness. If the facility is unable to establish tank integrity and product-tightness, secondary containment shall be required.
- (H) Any relocation of an existing above ground storage tank previously exempted shall be required to comply with all applicable requirements of this Section.

SECTION 5

RECORDS. All such copies of records required by these rules and regulations shall be transferred to any new owner or operator of a facility that is sold, leased, transferred to, or received by a new owner or operator. The transfer of copies of the records shall in no way operate to eliminate or obviate the necessity of the new owner or operator to register with the Health Department as required by these rules and regulations. All records required by these rules and regulations shall be made available for review by the Health Department upon request.

SECTION 6

VARIANCES

- (A) All requests for variances must be in writing to the Health Department and must contain all specifications, studies, or evidence showing why such a variance should be granted. The Health Department shall review the variance request and submit its recommendations to the Board of Health.
- (B) Variances from the ordinance and rules may be granted by the Health Department after a hearing in compliance with general public notice at least ten (10) days prior to the hearing at which the applicant establishes that the requested variance will not jeopardize or degrade the ground water or create other hazards to human health and that requiring strict compliance with the requirements of the ordinance and rules would create an undue burden upon the applicant.



In granting variances, the Health Department shall take into consideration the amount and type of toxic or hazardous substances involved; the rate and direction of ground water flow, soil conditions, depth to ground water, size and slope of site, existing and known future water supplies, and any other relevant factors. All variances shall be site specific, in writing, and include any and all conditions deemed necessary by the Health Department to assure the protection of the ground water and to prevent other hazards to human health.